

**By** the Committee on Environmental Preservation and Conservation;  
and Senator Latvala

592-03275-16

20161470c1

1 A bill to be entitled

2 An act relating to crustaceans; amending s. 379.365,  
3 F.S.; revising the administrative penalties for  
4 violations related to stone crab traps; amending s.  
5 379.3671, F.S.; revising the administrative penalties  
6 for violations related to spiny lobster traps;  
7 amending s. 379.407, F.S.; prohibiting the possession  
8 of undersized spiny lobsters by certain persons;  
9 specifying that each undersized spiny lobster may be  
10 charged as a separate offense of certain violations;  
11 specifying maximum penalties for such violations;  
12 specifying the criminal and administrative penalties  
13 for violations related to undersized spiny lobsters;  
14 amending s. 921.0022, F.S.; revising the offense  
15 severity ranking chart to include certain violations  
16 related to stone crabs and spiny lobsters; providing  
17 an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Paragraph (a) of subsection (2) of section  
22 379.365, Florida Statutes, is amended to read:

23 379.365 Stone crab; regulation.—

24 (2) PENALTIES.—For purposes of this subsection, conviction  
25 is any disposition other than acquittal or dismissal, regardless  
26 of whether the violation was adjudicated under any state or  
27 federal law.

28 (a) It is unlawful to violate commission rules regulating  
29 stone crab trap certificates and trap tags. A ~~No~~ person may not  
30 use an expired tag or a stone crab trap tag not issued by the  
31 commission or possess or use a stone crab trap in or on state

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32 waters or adjacent federal waters without having a trap tag  
33 required by the commission firmly attached thereto.

34 1. In addition to any other penalties provided in s.  
35 379.407, for a ~~any~~ commercial harvester who violates this  
36 paragraph, the following administrative penalties apply:~~:-~~

37 a. For a first violation, the commission shall assess an  
38 additional administrative penalty of up to \$1,000.

39 b. For a second violation that occurs within 24 months  
40 after ~~of~~ any previous such violation, the commission shall  
41 assess an additional administrative penalty of up to \$2,000, and  
42 the stone crab endorsement under which the violation was  
43 committed may be suspended for 12 ~~calendar~~ months.

44 c. For a third violation that occurs within 36 months after  
45 ~~of~~ any two previous ~~two~~ such violations, the commission shall  
46 assess an additional administrative penalty of up to \$5,000, and  
47 the stone crab endorsement under which the violation was  
48 committed may be suspended for 24 ~~calendar~~ months.

49 d. A fourth violation that occurs within 48 months after ~~of~~  
50 any three previous such violations, shall result in permanent  
51 revocation of all of the violator's saltwater fishing  
52 privileges, including having the commission proceed against the  
53 endorsement holder's saltwater products license in accordance  
54 with s. 379.407.

55 2. Any other person who violates ~~the provisions of~~ this  
56 paragraph commits a Level Two violation under s. 379.401.

57  
58 A ~~Any~~ commercial harvester assessed an administrative penalty  
59 under this paragraph shall, within 30 ~~calendar~~ days after  
60 notification, pay the administrative penalty to the commission,

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61 or request an administrative hearing under ss. 120.569 and  
62 120.57. The proceeds of all administrative penalties collected  
63 under this paragraph shall be deposited in the Marine Resources  
64 Conservation Trust Fund.

65 Section 2. Paragraph (c) of subsection (2) of section  
66 379.3671, Florida Statutes, is amended to read:

67 379.3671 Spiny lobster trap certificate program.—

68 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;  
69 PENALTIES.—The Fish and Wildlife Conservation Commission shall  
70 establish a trap certificate program for the spiny lobster  
71 fishery of this state and shall be responsible for its  
72 administration and enforcement as follows:

73 (c) *Prohibitions; penalties.*—

74 1. ~~It is unlawful for~~ A person may not ~~to~~ possess or use a  
75 spiny lobster trap in or on state waters or adjacent federal  
76 waters without having affixed thereto the trap tag required by  
77 this section. ~~It is unlawful for~~ A person may not ~~to~~ possess or  
78 use any other gear or device designed to attract and enclose or  
79 otherwise aid in the taking of spiny lobster by trapping that is  
80 not a trap as defined by commission rule.

81 2. ~~It is unlawful for~~ A person may not ~~to~~ possess or use  
82 spiny lobster trap tags without having the necessary number of  
83 certificates on record as required by this section.

84 3. ~~A~~ ~~It is unlawful for any~~ person may not ~~to~~ willfully  
85 molest, take possession of, or remove the contents of another  
86 harvester's spiny lobster trap without the express written  
87 consent of the trap owner available for immediate inspection.  
88 Unauthorized possession of another harvester's ~~another's~~ trap  
89 gear or removal of another harvester's trap contents constitutes

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90 theft.

91 a. A commercial harvester who violates this subparagraph  
92 shall be punished under ss. 379.367 and 379.407. A ~~Any~~  
93 commercial harvester receiving a judicial disposition other than  
94 dismissal or acquittal on a charge of theft of or from a trap  
95 pursuant to this subparagraph or s. 379.402 shall, in addition  
96 to the penalties specified in ss. 379.367 and 379.407 and ~~the~~  
97 ~~provisions of~~ this section, permanently lose all of his or her  
98 saltwater fishing privileges, including his or her saltwater  
99 products license, spiny lobster endorsement, and all trap  
100 certificates allotted to him or her through this program. In  
101 such cases, trap certificates and endorsements are  
102 nontransferable.

103 b. A ~~Any~~ commercial harvester receiving a judicial  
104 disposition other than dismissal or acquittal on a charge of  
105 willful molestation of a trap, in addition to the penalties  
106 specified in ss. 379.367 and 379.407, shall lose all of his or  
107 her saltwater fishing privileges for a period of 24 ~~calendar~~  
108 months.

109 c. In addition to any other penalties specified in this  
110 subparagraph, a ~~any~~ commercial harvester charged with violating  
111 this subparagraph and receiving a judicial disposition other  
112 than dismissal or acquittal for violating this subparagraph or  
113 s. 379.402 shall also be assessed an administrative penalty of  
114 up to \$5,000.

115  
116 Immediately upon receiving a citation for a violation involving  
117 theft of or from a trap, or molestation of a trap, and until  
118 adjudicated for such a violation or, upon receipt of a judicial

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119 disposition other than dismissal or acquittal of such a  
120 violation, the commercial harvester committing the violation is  
121 prohibited from transferring any of his or her spiny lobster  
122 trap certificates and endorsements.

123 4. In addition to any other penalties provided in s.  
124 379.407, a commercial harvester who violates ~~the provisions of~~  
125 this section or commission rules relating to spiny lobster traps  
126 shall be punished as follows:

127 a. If the first violation is for a violation of  
128 subparagraph 1. or subparagraph 2., the commission shall assess  
129 an additional administrative penalty of up to \$1,000. For all  
130 other first violations, the commission shall assess an  
131 additional administrative penalty of up to \$500.

132 b. For a second violation of subparagraph 1. or  
133 subparagraph 2. that ~~which~~ occurs within 24 months after ~~of~~ any  
134 previous such violation, the commission shall assess an  
135 additional administrative penalty of up to \$2,000, and the spiny  
136 lobster endorsement issued under s. 379.367(2) or (6) may be  
137 suspended for 12 months ~~the remainder of the current license~~  
138 ~~year~~.

139 c. For a third ~~or subsequent~~ violation of subparagraph 1.  
140 or ~~or~~ subparagraph 2. that, ~~or~~ ~~subparagraph 3. which~~ occurs within  
141 36 months after ~~of~~ any two previous ~~two~~ such violations, the  
142 commission shall assess an additional administrative penalty of  
143 up to \$5,000, and ~~may suspend~~ the spiny lobster endorsement  
144 issued under s. 379.367(2) or (6) may be suspended ~~for a period~~  
145 ~~of up to 24 months or may revoke the spiny lobster endorsement~~  
146 ~~and, if revoking the spiny lobster endorsement, may also proceed~~  
147 ~~against the licenseholder's saltwater products license in~~

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148 ~~accordance with the provisions of s. 379.407(2)(h).~~

149 d. A fourth violation that occurs within 48 months after  
150 any three previous such violations shall result in permanent  
151 revocation of all of the violator's saltwater fishing  
152 privileges, including having the commission proceed against the  
153 endorsement holder's saltwater products license in accordance  
154 with s. 379.407.

155 ~~e.d.~~ Within 30 days after notification, a Any person  
156 assessed an additional administrative penalty pursuant to this  
157 section shall ~~within 30 calendar days after notification:~~

158 (I) Pay the administrative penalty to the commission; or

159 (II) Request an administrative hearing pursuant to ~~the~~  
160 ~~provisions of~~ ss. 120.569 and 120.57.

161 ~~f.e.~~ The commission shall suspend the spiny lobster  
162 endorsement issued under s. 379.367(2) or (6) if a ~~for any~~  
163 person fails ~~failing~~ to comply with ~~the provisions of~~ sub-  
164 subparagraph e. d.

165 5.a. ~~A It is unlawful for any person~~ may not ~~to~~ make,  
166 alter, forge, counterfeit, or reproduce a spiny lobster trap tag  
167 or certificate.

168 b. ~~A It is unlawful for any person~~ may not ~~to~~ knowingly  
169 have in his or her possession a forged, counterfeit, or  
170 imitation spiny lobster trap tag or certificate.

171 c. ~~A It is unlawful for any person~~ may not ~~to~~ barter,  
172 trade, sell, supply, agree to supply, aid in supplying, or give  
173 away a spiny lobster trap tag or certificate or ~~to~~ conspire to  
174 barter, trade, sell, supply, aid in supplying, or give away a  
175 spiny lobster trap tag or certificate unless such action is ~~duly~~  
176 authorized by the commission as provided in this chapter or in

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177 the rules of the commission.

178 6.a. A ~~Any~~ commercial harvester who violates ~~the provisions~~  
179 ~~of~~ subparagraph 5., or a ~~any~~ commercial harvester who engages in  
180 the commercial harvest, trapping, or possession of spiny lobster  
181 without a spiny lobster endorsement as required by s. 379.367(2)  
182 or (6) or during any period while such spiny lobster endorsement  
183 is under suspension or revocation, commits a felony of the third  
184 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
185 775.084.

186 b. In addition to any penalty imposed pursuant to sub-  
187 subparagraph a., the commission shall assess ~~levy~~ a fine of up  
188 to twice the amount of the appropriate surcharge to be paid on  
189 the fair market value of the transferred certificates, as  
190 provided in subparagraph (a)1., on a ~~any~~ commercial harvester  
191 who violates ~~the provisions of~~ sub-subparagraph 5.c.

192 c. In addition to any penalty imposed pursuant to sub-  
193 subparagraph a., a ~~any~~ commercial harvester receiving any  
194 judicial disposition other than acquittal or dismissal for a  
195 violation of subparagraph 5. shall be assessed an administrative  
196 penalty of up to \$5,000, and the spiny lobster endorsement under  
197 which the violation was committed may be suspended for up to 24  
198 ~~calendar~~ months. Immediately upon issuance of a citation  
199 involving a violation of subparagraph 5. and until adjudication  
200 of such a violation, and after receipt of any judicial  
201 disposition other than acquittal or dismissal for such a  
202 violation, the commercial harvester holding the spiny lobster  
203 endorsement listed on the citation is prohibited from  
204 transferring any spiny lobster trap certificates.

205 d. A ~~Any other~~ person who violates ~~the provisions of~~

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206 subparagraph 5. commits a Level Four violation under s. 379.401.

207 7. Before ~~Prior to~~ the 2010-2011 license year, any  
208 certificates for which the annual certificate fee is not paid  
209 for a period of 3 years shall be considered abandoned and shall  
210 revert to the commission. Beginning with the 2010-2011 license  
211 year, any certificate for which the annual certificate fee is  
212 not paid for a period of 2 consecutive years shall be considered  
213 abandoned and shall revert to the commission. During any period  
214 of trap reduction, any certificates reverting to the commission  
215 shall become permanently unavailable and be considered in that  
216 amount to be reduced during the next license-year period.

217 Otherwise, any certificates that revert to the commission are to  
218 be reallocated in such manner as provided by the commission.

219 8. The proceeds of all administrative penalties collected  
220 pursuant to subparagraph 4. and all fines collected pursuant to  
221 sub-subparagraph 6.b. shall be deposited into the Marine  
222 Resources Conservation Trust Fund.

223 9. All traps shall be removed from the water during any  
224 period of suspension or revocation.

225 10. Except as otherwise provided, a ~~any~~ person who violates  
226 this paragraph commits a Level Two violation under s. 379.401.

227 Section 3. Subsection (5) of section 379.407, Florida  
228 Statutes, is amended to read:

229 379.407 Administration; rules, publications, records;  
230 penalties; injunctions.—

231 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED  
232 SEASON AND WRUNG TAILS.—

233 (a) It is a major violation under this section for any  
234 person, firm, or corporation to be in possession of spiny



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235 lobster during the closed season or, while on the water, to be  
236 in possession of spiny lobster tails that have been wrung or  
237 separated from the body, unless such possession is allowed by  
238 commission rule. A ~~Any~~ person, firm, or corporation that  
239 violates this paragraph ~~subsection~~ is subject to the following  
240 penalties ~~as follows~~:

241 1.~~(a)~~ A first violation is a misdemeanor of the second  
242 degree, punishable as provided in s. 775.082 or s. 775.083. If  
243 the violation involves 25 or more lobster, the violation is a  
244 misdemeanor of the first degree, punishable as provided in s.  
245 775.082 or s. 775.083.

246 2.~~(b)~~ A second violation is a misdemeanor of the first  
247 degree, punishable as provided in s. 775.082 or s. 775.083, and  
248 such person is subject to a suspension of his or her ~~all~~ license  
249 privileges under this chapter for a period not to exceed 90  
250 days.

251 3.~~(c)~~ A third violation is a misdemeanor of the first  
252 degree, punishable as provided in s. 775.082 or s. 775.083, with  
253 a mandatory minimum term of imprisonment of 6 months, and such  
254 person may be assessed a civil penalty of up to \$2,500 and is  
255 subject to a suspension of all license privileges under this  
256 chapter for a period not to exceed 6 months.

257 4.~~(d)~~ A third violation within 1 year after a second  
258 violation is a felony of the third degree, punishable as  
259 provided in s. 775.082 or s. 775.083, with a mandatory minimum  
260 term of imprisonment of 1 year, and such person shall be  
261 assessed a civil penalty of \$5,000 and all license privileges  
262 under this chapter shall be permanently revoked.

263 5.~~(e)~~ A fourth or subsequent violation is a felony of the

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264 third degree, punishable as provided in s. 775.082 or s.  
265 775.083, with a mandatory minimum term of imprisonment of 1  
266 year, and such person shall be assessed a civil penalty of  
267 \$5,000 and all license privileges under this chapter shall be  
268 permanently revoked.

269 (b) It is a major violation under this section for a  
270 recreational or commercial harvester to possess an undersized  
271 spiny lobster, unless authorized by commission rule. For  
272 violations of this paragraph involving fewer than 100 undersized  
273 spiny lobsters, each undersized spiny lobster may be charged as  
274 a separate offense under subparagraphs 1. and 2. However, the  
275 total penalties assessed under subparagraphs 1. and 2. for any  
276 one scheme or course of conduct may not exceed 4 years'  
277 imprisonment and a fine of \$4,000 under such subparagraphs. A  
278 person who violates this paragraph is subject to the following  
279 penalties:

280 1. A first violation is a misdemeanor of the second degree,  
281 punishable as provided in s. 775.082 or s. 775.083.

282 2. A second or subsequent violation is a misdemeanor of the  
283 first degree, punishable as provided in s. 775.082 or s.  
284 775.083.

285 3. If a violation involves 100 or more undersized spiny  
286 lobsters, the violation is a felony of the third degree,  
287 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
288 and a mandatory civil fine of at least \$500. In addition, the  
289 commission shall assess the violator with an administrative  
290 penalty of up to \$2,000 and may suspend the violator's license  
291 privileges under this chapter for a period of up to 12 months.

292 Section 4. Paragraph (e) of subsection (3) of section

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293 921.0022, Florida Statutes, is amended to read:

294 921.0022 Criminal Punishment Code; offense severity ranking  
 295 chart.—

296 (3) OFFENSE SEVERITY RANKING CHART

297 (e) LEVEL 5

298

Florida Statute	Felony Degree	Description
316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
<u>379.365 (2) (c) 1.</u>	<u>3rd</u>	<u>Violation of rules</u>

299

300

301

302

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relating to: willful  
molestation of stone crab  
traps, lines, or buoys;  
illegal bartering,  
trading, or sale,  
conspiring or aiding in  
such barter, trade, or  
sale, or supplying,  
agreeing to supply,  
aiding in supplying, or  
giving away stone crab  
trap tags or  
certificates; making,  
altering, forging,  
counterfeiting, or  
reproducing stone crab  
trap tags; possession of  
forged, counterfeit, or  
imitation stone crab trap  
tags; and engaging in the  
commercial harvest of  
stone crabs while license  
is suspended or revoked.

304

379.367(4)

3rd

Willful molestation of a  
 commercial harvester's  
 spiny lobster trap, line,  
 or buoy.

305

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~~379.3671(2)(c)3.~~

3rd

~~Willful molestation,  
possession, or removal of  
a commercial harvester's  
trap contents or trap  
gear by another  
harvester.~~

306

379.407(5)(b)3.

3rd

Possession of 100 or more  
undersized spiny  
lobsters.

307

381.0041(11)(b)

3rd

Donate blood, plasma, or  
organs knowing HIV  
positive.

308

440.10(1)(g)

2nd

Failure to obtain  
workers' compensation  
coverage.

309

440.105(5)

2nd

Unlawful solicitation for  
the purpose of making  
workers' compensation  
claims.

310

440.381(2)

2nd

Submission of false,  
misleading, or incomplete  
information with the  
purpose of avoiding or  
reducing workers'

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compensation premiums.

311

624.401 (4) (b) 2.

2nd

Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

312

626.902 (1) (c)

2nd

Representing an unauthorized insurer; repeat offender.

313

790.01 (2)

3rd

Carrying a concealed firearm.

314

790.162

2nd

Threat to throw or discharge destructive device.

315

790.163 (1)

2nd

False report of deadly explosive or weapon of mass destruction.

316

790.221 (1)

2nd

Possession of short-barreled shotgun or machine gun.

317

790.23

2nd

Felons in possession of firearms, ammunition, or

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electronic weapons or  
devices.

318  
319  
320  
321  
322  
323  
324

796.05 (1)

2nd

Live on earnings of a  
prostitute; 1st offense.

800.04 (6) (c)

3rd

Lewd or lascivious  
conduct; offender less  
than 18 years of age.

800.04 (7) (b)

2nd

Lewd or lascivious  
exhibition; offender 18  
years of age or older.

806.111 (1)

3rd

Possess, manufacture, or  
dispense fire bomb with  
intent to damage any  
structure or property.

812.0145 (2) (b)

2nd

Theft from person 65  
years of age or older;  
\$10,000 or more but less  
than \$50,000.

812.015 (8)

3rd

Retail theft; property  
stolen is valued at \$300  
or more and one or more  
specified acts.

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325	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
326	812.131 (2) (b)	3rd	Robbery by sudden snatching.
327	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
328	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
329	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
330	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
330	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment



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avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.

331

817.625 (2) (b)

2nd

Second or subsequent fraudulent use of scanning device or reencoder.

332

825.1025 (4)

3rd

Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

333

827.071 (4)

2nd

Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

334

827.071 (5)

3rd

Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual

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conduct by a child.

335

839.13 (2) (b)

2nd

Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

336

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

337

847.0135 (5) (b)

2nd

Lewd or lascivious exhibition using computer; offender 18 years or older.

338

847.0137 (2) & (3)

3rd

Transmission of pornography by electronic device or equipment.

339

847.0138 (2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

340

874.05 (1) (b)

2nd

Encouraging or recruiting another to join a

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criminal gang; second or subsequent offense.

341

874.05(2)(a)

2nd

Encouraging or recruiting person under 13 years of age to join a criminal gang.

342

893.13(1)(a)1.

2nd

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

343

893.13(1)(c)2.

2nd

Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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893.13(1)(d)1.                      1st                      Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.

345

893.13(1)(e)2.                      2nd                      Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

346

893.13(1)(f)1.                      1st                      Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.

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347

893.13(4)(b)

2nd

Deliver to minor cannabis  
(or other s.  
893.03(1)(c), (2)(c)1.,  
(2)(c)2., (2)(c)3.,  
(2)(c)5., (2)(c)6.,  
(2)(c)7., (2)(c)8.,  
(2)(c)9., (3), or (4)  
drugs).

348

893.1351(1)

3rd

Ownership, lease, or  
rental for trafficking in  
or manufacturing of  
controlled substance.

349

350

351

Section 5. This act shall take effect October 1, 2016.

352